

# **EXHIBIT K**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

STUDENTS FOR FAIR ADMISSIONS, )  
INC., )

*Plaintiff,* )

v. )

Case No. 1:20-cv-763

UNIVERSITY OF TEXAS AT AUSTIN; )  
JAMES B. MILLIKEN, Chancellor of the )  
University of Texas System in his )  
Official Capacity; STEVEN LESLIE, )  
Executive Vice Chancellor for Academic )  
Affairs of the University of Texas System )  
in his Official Capacity; DANIEL H. )  
SHARPHORN, Vice Chancellor and )  
General Counsel of the University of Texas )  
System in his Official Capacity; )  
JAY HARTZELL, Interim President of the )  
University of Texas at Austin in his )  
Official Capacity; BOARD OF REGENTS )  
OF THE TEXAS STATE UNIVERSITY )  
SYSTEM; DAVID J. BECK, CHRISTINA )  
MELTON CRAIN, KEVIN P. ELTIFE, R. )  
STEVEN HICKS, JODIE LEE JILES, )  
JANIECE LONGORIA, NOLAN PEREZ, )  
KELCY L. WARREN, AND JAMES C. )  
“RAD” WEAVER, as Members of the Board )  
of Regents in Their Official Capacities; )  
DANIEL JAFFE, Interim Executive Vice )  
President and Provost; RACHELLE )  
HERNANDEZ, Senior Vice Provost for )  
Enrollment Management and Student )  
Success; and MIGUEL WASIELEWSKI, )  
Executive Director for Office of Admissions,) )

*Defendants.* )

**Declaration of Faith  
Avery on behalf of Black  
Student Alliance**

I, Faith Avery pursuant to 28 U.S.C. § 1746, declare the following:

1. The facts set forth in this declaration are based on my personal first-hand knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the current Secretary of the Black Student Alliance (“BSA”) at the University of Texas at Austin (“UT”) and I am submitting this declaration on behalf of the Black Student Alliance in support of race consciousness in UT’s holistic admissions process.
3. The Black Student Alliance is committed to uplifting and empowering the Black community at UT, nationally, and throughout the African diaspora, with the ultimate goal of developing extraordinary leaders and promoting unity.
4. The alliance is comprised of an executive board of 12 members and a general body of about 43 members. The general body represents a wide diversity of students. All UT students are welcome to join and share in the mission of BSA.
5. The alliance facilitates several programs and activities to support the academic and leadership development of its general body members. For instance, BSA welcomes new incoming and transfer students to campus during Black Student Orientation the weekend before the first day of classes. During that orientation, BSA members, together with leaders from other organizations committed to Black student success, showcase the work of the different organizations, ways to get involved, and the on-campus academic and health support services available for students. This orientation fosters a sense of belonging and inclusivity and lets Black students know, from their first day on campus, that despite the troubling history of racial discrimination at UT, there is a place for them on campus, and resources available for them to thrive.
6. The alliance also hosts events with outside groups that capture bipartisan perspectives on political issues, and nonpartisan events aimed at raising awareness and increasing civic

participation. For example, during the fall 2020 semester, BSA hosted a joint event with Progressive Pipeline, a nonprofit organization focused on voter organizing and ensuring that all eligible voters in the state of Texas vote, and Spelman College's NAACP. During that event, the group discussed the importance of voting in the 2020 election and the impact that voting could potentially have on a range of issue areas that are important to general body members. Finally, the alliance hosts the BSA awards at the end of each academic year to recognize outstanding freshman, sophomore, junior, and senior students' academic and community leadership accomplishments.

7. To encourage ongoing conversations about issues that impact Black students at UT, BSA holds bi-weekly general body meetings that feature a discussion topic intended to help students process their racialized experiences at UT and the broader world. Some of the topics discussed during these meetings include cultural appropriation, the current socio-political environment in the US, life on campus at a predominately white institution, and issues facing the broader African diaspora.
8. Having Black students from a diverse array of backgrounds has been integral to the success of BSA's mission. During our discussions about intersectionality and race, it has been important for our group to hear and learn from multigenerational African American students, bi-racial students, first-generation or second-generation children of immigrant students (*e.g.* from African countries or Caribbean countries), first-generation college students, older adult students, high, middle, and low-income students, international students, native Texans, and students from others parts of the country, among others. While nearly all of these students are Black and share a common set of experiences based on race and culture, learning about differences helps build a stronger sense of identity among members, allows students to more effectively support each other through struggles, and

strengthens solidarity during moments of difficulty and pain. For example, some first-generation college students have been able to rely on those from multi-generational college families to adjust to college life and seek out the resources necessary for success. BSA members have also recognized commonalities in their racialized experiences regardless of socioeconomic status or ancestry, including interactions with law enforcement or negative stereotypes from other students or faculty. Also, learning about Blackness from varied geopolitical perspectives has helped us build greater solidarity with other members of the African diaspora. BSA is currently drafting a statement of support for the Nigerian #EndSARS protests against police brutality. Any reduction in the amount of diversity among Black students, and the overall number of those students, would seriously undermine the mission of the BSA and its ability to maximize the leadership and learning potential of its members.

9. The alliance is intentional about creating space for members to have cross-cultural and cross-racial interactions that will prepare students for leadership in a pluralistic society. We invite other student organizations and groups to speak to our members and encourage involvement in broader UT student life. For example, we have encouraged our members to join the Texas Orange Jackets, and multicultural fraternities or sororities like Delta Xi Nu, by advertising those opportunities in our newsletter and inviting those leaders to speak at our general body meetings.
10. BSA has continued to work with other Black organizations and interested groups in helping UT confront its legacy of segregation and racism, and push the university to grow into a more inclusive and racially equitable institution. This is necessary because the lingering effects of discrimination are still evident on our campus and can harm student learning and interpersonal development. For example, there has been a renewed focus on singing the


“Eyes of Texas” song during football games in the presence of Black football players and fans. The song has confederate origins and individuals used to sing it in blackface during minstrel shows. Groups on campus have also had “Affirmative Action Bakesales” which question the legitimacy of Black students on campus, creating little more than hostility toward a small minority of students under the guise of free speech. Until recently, UT still had confederate statues on campus, and it still has buildings named after individuals who engaged in white supremacist actions, like the Painter Building.<sup>1</sup> BSA and other groups are currently engaged with university administration to address these lingering effects, and our students actively fight for racial justice on campus. Any action that would decrease the number of Black students—the group most involved in making UT a more just and fair campus community—would undermine those efforts.

11. The alliance does not believe that class or socioeconomic status is a sufficient proxy for race. It is both tone-deaf and intellectually dubious to simply assume that targeting more low-income students would result in more Black students—and the intra-group diversity among the composition of those students—sufficient to enrich UT’s learning community. Further, if race is removed as a factor of a factor that admissions officers can consider, it would likely act as a disincentive for UT to actively recruit promising Black students and other students of color who were traditionally unwelcome on the campus. UT must do more, not less, to increase the share of Black students on campus, and build a microcosm of the pluralistic leadership environments where it expects its students to thrive after graduation.

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<sup>1</sup> Theophilus Painter was a professor and president of UT. In 1950, he was the president of UT and defendant in *Sweatt v. Painter*, a case that involved denying admission to a Black man, Heman Sweatt, to UT Law. Painter’s involvement in a case where UT defended segregation and white supremacy is a stain on the legacy of the institution. Rewarding a president associated with such indefensible actions with a building commemoration, and continued refusal to rename the building, is shameful.

I declare under the penalty of perjury under the laws of the United States of America and the State of Texas that the foregoing is true and correct and that this declaration was executed on  
November 13, 2020, in Travis County, Texas.

  
Faith Avery